

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Katherine Matejcek	Team: Squad #1	CCRB Case #: 201700329	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 01/07/2017 1:21 AM	Location of Incident: [REDACTED]	Precinct: 70	18 Mo. SOL 7/7/2018	EO SOL 7/7/2018	
Date/Time CV Reported Sat, 01/07/2017 2:46 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 01/13/2017 12:30 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POF Peggy Alves	27641	903331	070 PCT
2. POM Tarik Haywood	14154	960648	070 PCT
3. POM Miguel Salgado	09053	951197	070 PCT
4. POM Frank Fiorenza	18475	957588	070 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Melissa Depalma	10283	954723	070 PCT
2. POM Ryan Morin	04793	960971	070 PCT
3. POM Jair Flores	22120	959637	070 PCT
4. POF Devin Tracy	07062	961390	070 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Peggy Alves	Abuse: Police Officer Peggy Alves entered § 87(2)(b) [REDACTED] in Brooklyn.	[REDACTED]
B.POM Miguel Salgado	Abuse: Police Officer Miguel Salgado entered § 87(2)(b) [REDACTED] in Brooklyn.	[REDACTED]
C.POM Tarik Haywood	Abuse: Police Officer Tarik Haywood entered § 87(2)(b) [REDACTED] in Brooklyn.	[REDACTED]
D.POM Frank Fiorenza	Abuse: Police Officer Frank Fiorenza entered § 87(2)(b) [REDACTED] in Brooklyn.	[REDACTED]
E.POM Miguel Salgado	Force: Police Officer Miguel Salgado used force against § 87(2)(b) [REDACTED]	[REDACTED]
F.POF Peggy Alves	Abuse: Police Officer Peggy Alves damaged § 87(2)(b) [REDACTED] s property.	[REDACTED]

## Case Summary

On January 7, 2017, § 87(2)(b) filed this complaint with IAB on behalf of her nephew, § 87(2)(b) [01 Board Review]. It was received by the CCRB on January 13, 2017.

On January 7, 2017, at approximately 1:20 a.m., § 87(2)(b) took a taxi from Manhattan to his girlfriend's mother's apartment in Brooklyn. § 87(2)(b) stated that he prepaid the driver in cash at the beginning of the trip and that, although he had a two or three beers earlier that night, he was not intoxicated. However, when the taxi arrived at § 87(2)(b)'s apartment, the driver informed § 87(2)(b) that the meter had been running and that he still needed to pay his fare. § 87(2)(b) refused to pay the additional fare, exited the cab, and rang the bell to § 87(2)(b).

Shortly after § 87(2)(b) entered the apartment, PO Peggy Alves and PO Tarik Haywood of the 70<sup>th</sup> Precinct knocked on the apartment's front door and asked if anyone inside had just taken a taxi. § 87(2)(b) stood in the doorway – but fully inside the apartment – and argued with the officers over whether or not he had paid the fare. During this argument, PO Alves placed her foot over the threshold of the apartment's front door (**Allegation A**). Additional officers arrived at the scene and brought the taxi driver, § 87(2)(b) upstairs for a show-up. § 87(2)(b) confirmed that § 87(2)(b) was his passenger and that he had not paid his fare. PO Haywood, along with PO Miguel Salgado and PO Frank Fiorenza, also of the 70<sup>th</sup> Precinct, reached across the threshold of the doorway, grabbed § 87(2)(b)'s arms, and pulled him out of the apartment into the hallway (**Allegations B, C, and D**). The officers informed § 87(2)(b) that he was being arrested. § 87(2)(b) verbally protested but did not physically resist the officers. As PO Haywood and PO Salgado handcuffed § 87(2)(b), PO Salgado allegedly placed his palm on the back of § 87(2)(b)'s head and slammed it against the wall, resulting in a laceration above § 87(2)(b)'s left eyebrow and a bloodstain on the wall (**Allegation E**). After § 87(2)(b) was handcuffed, officers searched him and retrieved his cell phone. § 87(2)(b) asked the officers to give the phone to his girlfriend, § 87(2)(b) who was watching nearby. PO Alves allegedly tossed § 87(2)(b)'s cell phone onto the floor, causing its screen to crack (**Allegation F**). § 87(2)(b) was then placed inside an ambulance and transported to § 87(2)(b), where he received treatment for the laceration [02 Board Review]. As a result of this incident, § 87(2)(b) was arrested and charged with § 87(2)(b) [03 Board Review].

Surveillance video for this incident was obtained from SecureWatch24, the company that maintains the external security system at § 87(2)(b)'s apartment. It is linked to IA #89-93 of the digital case file. This video shows what happened outside the building prior to the officers' arrival but does not show the incident itself. No video footage showing the hallway where the incident took place was available for this incident.

An attorney was consulted regarding Allegations A, B, C, and D.

### Mediation, Civil and Criminal Histories

- § 87(2)(b)'s arrest and injuries rendered this case ineligible for mediation.
- As of April 7, 2017, no Notice of Claim has been filed for this incident [04 Board Review].

- § 87(2)(b) case related to this incident is still open. His next court appearance is scheduled for § 87(2)(b) [05, 14 Board Review].

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint filed by or on behalf of § 87(2)(b) [06 Board Review].
- PO Alves has been a member of the NYPD for 23 years. This is the fourth CCRB case filed against her. Two of her prior cases, #9802112 and #200408818, contain abuse of authority allegations that were closed as complaint withdrawn and exonerated, respectively. § 87(2)(g) [07 Board Review].
- PO Haywood has been a member of the NYPD for one year. This is the first CCRB case filed against him [07 Board Review].
- PO Salgado has been a member of the NYPD for five years. This is the third CCRB case filed against him. Both prior cases, #201304862 and #201306678, contained allegations of force but were closed as complainant uncooperative and complainant unavailable. § 87(2)(g) [07 Board Review].
- PO Fiorenza has been a member of the NYPD for 2 years. This is the first CCRB case filed against him [07 Board Review].

### **Potential Issues**

- The taxi driver, § 87(2)(b) may have been present to observe the alleged force following the show-up. § 87(2)(b) name and contact information are noted in the UF-61 [03 Board Review]. The undersigned made the requisite contact attempts to § 87(2)(b) using both his given contact information and additional addresses and phone numbers found in public records searches. To date, § 87(2)(b) has not yet contacted the CCRB.
- The tenant of § 87(2)(b), § 87(2)(b) witnessed at least some part of this incident. The undersigned contacted § 87(2)(b) and took part of a phone statement. Before she finished providing her account of the incident, § 87(2)(b) had to end the call, but stated that the undersigned could call her back at the same number. The undersigned made four follow-up calls to the same phone number but was not able to reach § 87(2)(b) to obtain the remainder of her statement.

### **Findings and Recommendations**

#### **Allegations Not Pleaded**

- Abuse of Authority: § 87(2)(b) alleged that he was searched after officers handcuffed him and placed him under arrest. Because this was a search incident to lawful arrest, no search of person allegation is pled in regards.

**Allegation A – Abuse of Authority: Police Officer Peggy Alves entered § 87(2)(b) § 87(2)(b) in Brooklyn.**

An attorney was consulted regarding this allegation.

As discussed above, § 87(2)(b) maintained that he paid § 87(2)(b) and that he was not intoxicated at the time of the incident. § 87(2)(b) stated that, although he fell asleep during the drive home, he woke up on his own when he reached his destination and entered the apartment without incident. Approximately seven minutes later, PO Alves and PO Haywood knocked on the apartment door. When the officers first arrived, § 87(2)(b) and PO Alves had a 5-minute discussion regarding whether or not § 87(2)(b) had paid the cab fare. PO Haywood stood silently in the hallway and was not involved in the discussion. This conversation did not escalate into an argument at any point. This conversation took place at the doorway to the apartment. § 87(2)(b) was standing fully inside the apartment directly in front of the open door. § 87(2)(b) girlfriend, § 87(2)(b) and her mother, § 87(2)(b) were also inside the apartment in the vicinity of the doorway. When it became apparent to § 87(2)(b) that he and PO Alves were not going to reach an agreement on the matter, he told PO Alves that he was going to go back to what he was doing and enjoy his night. As § 87(2)(b) attempted to close the door, PO Alves stuck her foot in the doorway. PO Alves' foot crossed the threshold of the apartment and kept the door from closing. § 87(2)(b) reopened the door and the conversation continued.

Although the investigation was not able to reach § 87(2)(b) for a witness statement, the undersigned obtained a recording of § 87(2)(b) call to 911. § 87(2)(b) called 911 from outside § 87(2)(b) § 87(2)(b) to report that his passenger had been asleep in the backseat of the taxi for 30 minutes. § 87(2)(b) informed the operator that he had tried to wake § 87(2)(b) by touching him and yelling at him but that it was not working. § 87(2)(b) further stated that the passenger was 35 years old and did not appear to be intoxicated. As a result of this call, EMS responded to the scene.

EMT § 87(2)(b) and his partner arrived shortly thereafter in an ambulance. EMT § 87(2)(b) shook § 87(2)(b) repeatedly until he woke up. In doing so, EMT § 87(2)(b) noticed that § 87(2)(b) breath smelled like alcohol. Once § 87(2)(b) was awake, EMT § 87(2)(b) asked § 87(2)(b) if he had paid the fare. § 87(2)(b) said no. EMT § 87(2)(b) told § 87(2)(b) that he needed to pay, but § 87(2)(b) shrugged his shoulders and ran towards the apartment building. EMT § 87(2)(b) ran after § 87(2)(b) and observed which doorbell he rang to gain entry into the apartment. EMT § 87(2)(b) then called the police on § 87(2)(b) behalf. When PO Alves and PO Haywood responded, EMT § 87(2)(b) and § 87(2)(b) explained what had happened and told the officers which doorbell § 87(2)(b) had rang. After officers entered the building, EMT § 87(2)(b) waited outside for 10-15 minutes before an officer came downstairs and asked him to come inside the building. When he entered the building, § 87(2)(b) was already in handcuffs and being escorted downstairs by the officers.

Video footage obtained for this incident corroborates the accounts of EMT § 87(2)(b) and § 87(2)(b). This footage shows an ambulance arriving outside § 87(2)(b)'s apartment. An EMT and § 87(2)(b) can be seen looking inside the backseat of the taxi for approximately three minutes. 9 minutes after the video begins, § 87(2)(b) exits the taxi and approaches § 87(2)(b) § 87(2)(b) while being followed by an EMT.

§ 87(2)(b) testified that she was sitting 5-6 feet away from the front door as PO Alves and PO Haywood spoke with § 87(2)(b). At some point during their conversation, § 87(2)(b) got up to use the bathroom. When she walked past the doorway, she saw PO Alves leaning against the doorframe in such a way that part of her arm crossed the plane of the doorway. § 87(2)(b) also noted that PO Alves' foot was placed "on the borderline" of the front door. § 87(2)(b) stated that § 87(2)(b) was standing 2-3 feet inside the apartment as he conversed with the officers and that she never saw any part of his body cross the plane of the doorway. § 87(2)(b) stated that § 87(2)(b) was not intoxicated at the time of the incident.

PO Alves testified that, when she arrived at § 87(2)(b), she spoke with two EMTs, who informed her that § 87(2)(b) had been passed out in the back of a taxi prior to the officers' arrival, that § 87(2)(b) was drunk, and that § 87(2)(b) rang the bell to § 87(2)(b) before entering the building. PO Alves did not recall if she spoke with the taxi driver before going upstairs. PO Alves did not check the taxi's meter or request any receipt confirming that § 87(2)(b) had not paid his fare prior to entering the building. PO Alves and PO Haywood rang the doorbell for § 87(2)(b), entered the building, and walked upstairs. When officers knocked on the door, § 87(2)(b) answered. PO Alves asked § 87(2)(b) if anyone in the apartment had just taken a taxi. § 87(2)(b) said yes and called § 87(2)(b) to the doorway. The officers informed § 87(2)(b) that he had been accused of theft of service. § 87(2)(b) insisted that he paid the driver, and the three of them argued about the matter for an extended period of time in the doorway. PO Alves believed that § 87(2)(b) was intoxicated because she could smell alcohol on his breath. Nothing else about his appearance or behavior led her to believe that he was intoxicated. PO Alves stated that, during their conversation, § 87(2)(b) was standing just inside the apartment's open front door. § 87(2)(b) was fully inside the apartment for the entirety of this conversation. PO Haywood stood on the right side of the doorframe, while PO Alves stood to the left on the hinge side of the door. PO Alves stated that her left foot was placed just outside the doorframe for most of this conversation. However, PO Alves stated that after the taxi driver came upstairs for a show-up and PO Alves informed § 87(2)(b) that he was under arrest (discussed in further detail below), she instructed him to exit the apartment more than once. § 87(2)(b) allegedly refused to comply and attempted to close the apartment's front door. He was prevented from doing so by PO Alves' left foot, which was placed on the doorframe.

PO Haywood stated that he and PO Alves spoke to the taxi driver when they arrived at § 87(2)(b). The driver informed them that his passenger, described as a black male, did not pay his fare and was intoxicated. The driver also told the officers which doorbell § 87(2)(b) rang prior to gaining entry to the building. PO Haywood stated that he checked the taxi's meter to confirm that the fare had not been paid. He and PO Alves then entered the building by ringing the doorbell specified by the taxi driver. Like PO Alves, PO Haywood testified that the officers argued back and forth with § 87(2)(b) over whether he had paid his fare for quite some time. PO Haywood suspected that § 87(2)(b) was intoxicated because he allegedly stated "I know I'm drunk but I know what I did" and cursed at officers. Although § 87(2)(b) was angry, he never presented a safety concern. As the officers argued with § 87(2)(b) he stood fully inside his apartment directly in front of the doorframe. No part of his body crossed the doorframe. PO Haywood stood on one side of the doorway in the hallway, while PO Alves stood on the other. Although PO Haywood initially stated that neither he nor PO Alves entered the apartment, he also stated that PO Alves placed her foot in the doorway. PO Haywood stated that her foot was placed

in such a way that it would have prevented § 87(2)(b) from closing the door, although § 87(2)(b) never attempted to close the door. He did not know why PO Alves positioned her foot in the doorframe.

PO Salgado responded to PO Alves' request for an additional unit on scene. When PO Salgado arrived upstairs, he found PO Alves and PO Haywood standing outside the open apartment door. § 87(2)(b) was standing just inside the doorway with his body fully inside the apartment. PO Haywood was standing to the right side of the door. PO Alves was standing to the left. One of her feet was placed "inside the apartment" and was positioned in such a way that it would have prevented the door from closing. PO Salgado stated that he never learned why PO Alves placed her foot in the doorway.

PO Fiorenza responded to PO Alves' request for an additional unit on scene. When PO Fiorenza arrived upstairs, he found a number of officers including PO Alves, PO Salgado, PO Tracy, and PO Haywood, outside the open apartment door. § 87(2)(b) was standing fully inside the apartment just beyond the doorframe. No part of his body crossed the threshold of the doorway. PO Fiorenza stated that no officer crossed the threshold of the apartment. PO Fiorenza stated that § 87(2)(b) never tried to close the door on officers while he was on scene. PO Fiorenza never saw PO Alves' foot in the doorway to the apartment and never learned that she had placed her foot on or past the doorframe. To PO Fiorenza's knowledge, PO Alves never did anything to keep the apartment's door from closing.

§ 87(2)(b) stated that during § 87(2)(b) initial conversation with PO Alves and PO Haywood she sat on her bed in her bedroom and listened in. § 87(2)(b) explained that, from her bedroom, she could hear their conversation but could not see what was happening. § 87(2)(b) heard voices explaining why they were at the door and asking if they could come inside the apartment. § 87(2)(b) told the officers that they could not come inside. However, § 87(2)(b) was not in a position to observe whether PO Alves' foot crossed the threshold of the doorway.

In *Payton v. New York*, the United States Supreme Court determined that "The Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances that threshold may not reasonably be crossed without a warrant" (*Payton v. New York*, 445 US 573, 100 S Ct 1371, 64 L Ed 2d 639 [1980]) [08 Board Review].

§ 87(2)(g)

[REDACTED]

**Allegation B – Abuse of Authority: Police Officer Miguel Salgado entered § 87(2)(b) in Brooklyn.**

**Allegation C – Abuse of Authority: Police Officer Tarik Haywood entered § 87(2)(b) in Brooklyn.**

**Allegation D – Abuse of Authority: Police Officer Frank Fiorenza entered § 87(2)(b) in Brooklyn.**

An attorney was consulted regarding the following allegations.

As § 87(2)(b) spoke with PO Alves, additional officers arrived on the scene, including PO Salgado and PO Fiorenza. When the officers came upstairs, they brought the taxi driver, § 87(2)(b) with them. § 87(2)(b) told officers that § 87(2)(b) was the passenger who had refused to pay his fare. At the time, § 87(2)(b) was still fully inside the apartment. Immediately after § 87(2)(b) identified § 87(2)(b) PO Salgado reached across the threshold of the apartment with his arms and grabbed § 87(2)(b) by the front of his sweater. PO Salgado then pulled § 87(2)(b) into the hallway and said “You’re being arrested.”

§ 87(2)(b) stated that she was still in her bedroom when officers removed § 87(2)(b) from the apartment. She had a partially obstructed view of the scene in the doorway. § 87(2)(b) testified to seeing an officer step fully into the apartment, grab § 87(2)(b) by his shoulders, and pull him outside. § 87(2)(b) was fully inside the apartment at the time. She could not provide a description of this officer.

§ 87(2)(b) initially stated that she did not see how officers removed § 87(2)(b) from the apartment. Later, she stated that three officers – a Hispanic male and two white males – stepped fully into the apartment, grabbed § 87(2)(b) by his arms, and pulled him into the hallway. § 87(2)(b) was fully inside the apartment at the time.

PO Alves testified that, following § 87(2)(b) alleged attempt to close the front door, he remained fully inside the apartment with no part of his body extending beyond the threshold of the door. After § 87(2)(b) confirmed the identity of § 87(2)(b) PO Alves informed him that he was under arrest and that he needed to come outside. After § 87(2)(b) allegedly attempted to close the door on PO Alves and PO Alves placed her foot in the doorway to prevent him from doing so, PO Haywood, PO Salgado, and PO Fiorenza reached inside the apartment to remove § 87(2)(b) by grabbing his arms.

PO Haywood testified that, following § 87(2)(b) positive identification of § 87(2)(b) officers repeatedly informed him that he was under arrest. PO Haywood did not recall if any officer instructed § 87(2)(b) to step into the hallway. As discussed above, PO Haywood testified that § 87(2)(b) never stepped past the threshold of the doorway. PO Haywood stated that, because it was apparent that § 87(2)(b) was not going to voluntarily step into the hallway, he and PO Salgado reached into the apartment, grabbed § 87(2)(b) wrists, and pulled him across the threshold of the apartment. Initially, PO Haywood testified that a third officer, described as a tall male with light skin, assisted them in bringing § 87(2)(b) into the hallway. When asked to clarify, PO Haywood stated that he and PO Salgado were the only officers who reached across the plane of the doorway to grab § 87(2)(b).

PO Salgado testified that, immediately following § 87(2)(b) positive identification, PO Haywood reached across the threshold of the doorway and grabbed one of § 87(2)(b) wrists. PO Salgado stated that, at the time, § 87(2)(b) was still standing fully inside the apartment. When PO Haywood grabbed § 87(2)(b) wrist, no officer had informed § 87(2)(b) that he was under arrest, and PO Salgado did not recall if any officer had asked him to step into the hallway. Initially, PO Salgado testified that he grabbed § 87(2)(b) free wrist immediately after PO Haywood did so. When asked to clarify whether his own arm ever crossed the threshold of the doorway, PO Salgado stated that it did not, and that he only made contact with § 87(2)(b) wrist after PO Haywood had already brought him into the hallway.

PO Fiorenza stated that, following § 87(2)(b) positive identification, he informed § 87(2)(b) that he would be arrested if he did not pay the fare. PO Fiorenza asked § 87(2)(b) if anyone else could pay the fare on his behalf, but § 87(2)(b) said no. PO Fiorenza then informed § 87(2)(b) that he was under arrest. PO Fiorenza and PO Haywood each instructed § 87(2)(b) to step outside at least twice, but § 87(2)(b) did not comply and remained fully inside his apartment with no part of his body crossing the threshold of the doorway. Because it was clear that § 87(2)(b) was not going to exit the apartment voluntarily, PO Fiorenza and PO Haywood grabbed one of his forearms, while PO Salgado grabbed the other. In doing so, all three officers reached across the threshold of the apartment.

As discussed above, EMT § 87(2)(b) was not in a position to observe how officers removed § 87(2)(b) from his apartment and never learned what happened upstairs while he waited outside.

In *Payton v. New York*, the United States Supreme Court determined that “The Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant” (Payton v. New York, 445 US 573 [1980]) [08 Board Review]. In *People v. Min Chul Shin* and *People v. Schiavo*, the court ruled in each case that the defendant’s arrest at the doorway of a private residence did not violate *Payton v. New York* as the doorway is a public place for the purposes of Fourth Amendment analysis and because the defendant had no legitimate expectation of privacy while standing there and exposed to public view (People v. Min Chul Shin, 200 A.D.2d 770 (1994); People v. Schiavo, 212 A.D.2d 816 (1995) [13 and 15 Board Review].

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**Allegation E – Force: Police Officer Miguel Salgado used force against § 87(2)(b)**

§ 87(2)(b) stated that, as PO Salgado pulled him out of his apartment, he did not physically resist in any way. He only verbally protested by asking PO Salgado “What are you doing?” in a normal tone of voice. § 87(2)(b) stated that he immediately put his hands behind his back without being asked to do so. PO Salgado immediately handcuffed his left wrist as the two of them walked further into the hallway. § 87(2)(b) asked PO Salgado what he was being arrested for. In response, PO Salgado allegedly grabbed the back of § 87(2)(b) head on the right side with an open palm and forced his head forward into the wall. The upper left side of § 87(2)(b) head made contact with the wall, resulting in a laceration to his left eyebrow. § 87(2)(b) stated that, when this occurred, § 87(2)(b) and § 87(2)(b) were still inside the apartment and may not have been in a position to see what had happened. However, the other officers on scene, along with the taxi driver, were standing approximately 10 feet away near the building’s elevator, and were probably able to see how § 87(2)(b) sustained his injury. After § 87(2)(b) head hit the wall, PO Haywood finished handcuffing him without using any force.

§ 87(2)(b) prehospital care report notes that the ambulance was initially dispatched for an unconscious patient, and that he sustained an injury as a result of alcohol intoxication. The report lists his injury as a minor laceration to his left eyebrow area. In his medical records from § 87(2)(b), his doctor notes that § 87(2)(b) stated that he had pain on the left side of his head as a result of having his head slammed against the wall. The medical records note that the laceration was minor but required stitches or Dermabond. § 87(2)(b) laceration was treated with Dermabond [02 Board Review].

The TRI report prepared for this incident by PO Salgado states that officers used force to overcome resistance or aggression [10 Board Review]. It also notes that § 87(2)(b) sustained an

injury of minor swelling a result of an unintentional action by a member of service. § 87(2)(b) arrest report also notes that officers used force against § 87(2)(b) to overcome resistance or aggression [03 Board Review].

PO Salgado stated that, when § 87(2)(b) was first removed from the apartment, PO Haywood grabbed his wrist and “escorted” him into the hallway by guiding him forward. § 87(2)(b) did not resist in any way. However, as soon as § 87(2)(b) entered the hallway, he began to pull his arms away from PO Haywood and jerk his entire body away from him. PO Salgado then grabbed § 87(2)(b) free wrist. PO Haywood and PO Salgado overcame § 87(2)(b) resistance by pulling his arms back so that he could be handcuffed. As § 87(2)(b) jerked his body forward, he lost his balance and hit his head against the wall, which was directly in front of him. This resulted in a cut to § 87(2)(b) left eyebrow. PO Salgado stated that § 87(2)(b) did not trip, but rather that he lost his balance because he was trying to break free from the officers’ hold. After § 87(2)(b) hit his head on the wall, PO Haywood and PO Salgado handcuffed § 87(2)(b) and he calmed down. PO Salgado stated that, aside from jerking away from the officers, § 87(2)(b) did not resist in any way. He also testified that no officer ever made contact with § 87(2)(b) head and that neither he nor any other officer ever slammed § 87(2)(b) head against the wall. PO Salgado stated that, aside from pulling on § 87(2)(b) arms, no officer used any physical force against him, and that § 87(2)(b) did not sustain any additional injuries aside from the laceration to his head. PO Salgado stated that § 87(2)(b) did not make any complaints that an officer had slammed his head against the wall or that an officer had used force against him. PO Salgado stated that, when he prepared the TRI for this incident, his reference to force used to overcome resistance referred to the use of handcuffs. No additional force was used. PO Salgado explained that, although the TRI stated that § 87(2)(b) was injured as a result of an unintentional action by a member of service, no civilian on scene was injured as the result of an unintentional action by a member of service. Finally, PO Salgado stated that the TRI referred to § 87(2)(b) injury as “minor swelling” because § 87(2)(b) laceration was accompanied by minor swelling. PO Salgado also noted that this was the first TRI report that he had ever completed.

PO Fiorenza stated that, as soon as he, PO Salgado, and PO Haywood grabbed § 87(2)(b) arms, he “went berserk” and began to flail his arms, scream, and curse. The officers brought § 87(2)(b) into the hallway and struggled with him for 30-60 seconds before handcuffing him. During this process, PO Fiorenza, PO Haywood, and PO Salgado overcame § 87(2)(b) resistance by holding his arms behind his back. PO Fiorenza did not recall which officer placed § 87(2)(b) in handcuffs and did not recall if any additional officers assisted with the handcuffing process. As the officers held § 87(2)(b) arms, he moved his arms, head, and body back and forth erratically. As a result, § 87(2)(b) head hit the wall, resulting in an abrasion to his forehead. PO Fiorenza later clarified that he did not personally observe how § 87(2)(b) head made contact with the wall; he inferred that this had occurred when § 87(2)(b) was in handcuffs and he first noticed his laceration. PO Fiorenza did not observe PO Salgado make contact with § 87(2)(b) head or slam him against the wall. No officer on scene intentionally caused § 87(2)(b) to make contact with the wall. PO Fiorenza stated that, aside from the arm holds used by him, PO Salgado, and PO Haywood, no other officer on scene used any other force against § 87(2)(b).

PO Alves testified that, immediately after PO Haywood, PO Salgado, and PO Fiorenza made contact with § 87(2)(b) he began to flail his arms. The officers quickly brought § 87(2)(b) into

the hallway, but struggled with him for less than three minutes before handcuffing him. In the final seconds of this timeframe, § 87(2)(b) leaned his head and torso forward in what appeared to PO Alves to be a continuation of his prior efforts to break free from the officers' hold. As he did this, § 87(2)(b) hit his head against the wall, resulting in a small cut over his left eye. When § 87(2)(b) head hit the wall, he had not yet been handcuffed, but officers were holding his hands behind his back. Seconds after his head hit the wall, officers were able to place him in handcuffs. PO Alves did not recall if any officer placed their hand on the back of § 87(2)(b) head, but stated that no officer on scene forced § 87(2)(b) head against the wall. Aside from PO Haywood, PO Salgado, and PO Fiorenza, no officer made physical contact with § 87(2)(b) at any point during this incident. Aside from flailing his arms and moving his torso, § 87(2)(b) did not resist officers in any way.

PO Haywood stated that, once § 87(2)(b) was brought into the hallway, he did not resist arrest in any way. PO Haywood also stated (incorrectly) that § 87(2)(b) was not charged with resisting arrest. By PO Haywood's account of events, he and PO Salgado were able to handcuff § 87(2)(b) in seconds without any struggle. It was only after § 87(2)(b) was handcuffed that PO Haywood noticed a small cut on his left eyebrow. PO Haywood testified that § 87(2)(b) did not have this cut when officers were speaking to him in the doorway. PO Haywood stated that he did not know how § 87(2)(b) sustained this injury and never learned how it happened from any officer on scene. Although PO Haywood was holding § 87(2)(b) arm when he was being handcuffed, he never noticed § 87(2)(b) flailing his body or making any erratic movements. PO Haywood never saw any officer make contact with § 87(2)(b) head, never saw any officer slam his head against the wall, and never learned that any officer had done so. PO Haywood stated that he did not see or hear § 87(2)(b) head hit the wall at any point. PO Haywood reiterated that, to his knowledge, the only time force was used on scene was when he and PO Salgado held § 87(2)(b) arms behind his back in order to handcuff him.

§ 87(2)(b) remained inside the apartment after officers brought § 87(2)(b) into the hallway. It was not until one minute later that she entered the hallway after hearing a loud bump. By the time she saw § 87(2)(b) again, he had already sustained the laceration to his head. After the incident, she was informed by § 87(2)(b) that PO Salgado had used force against him and caused the injury and took photographs of the resulting blood on the wall in the hallway [11 Board Review].

As discussed above, EMT § 87(2)(b) was not upstairs when § 87(2)(b) sustained his injury and never learned anything about what happened between the officers and § 87(2)(b). EMT § 87(2)(b) noted that § 87(2)(b) did not have any injuries when he first arrived on scene, but that he had a laceration on his face when officers escorted him downstairs.

§ 87(2)(b) repeatedly alleged that officers slammed § 87(2)(b) head against the wall. However, before the undersigned could ask for clarification, she ended the call.

It is undisputed that § 87(2)(b) sustained a laceration above his eyebrow during the handcuffing process. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation F – Abuse of Authority: Police Officer Peggy Alves damaged § 87(2)(b) property.**

§ 87(2)(b) stated that after he was handcuffed, PO Alves and PO Haywood searched him in the hallway. § 87(2)(b) watched the search take place from the doorway. The officers recovered § 87(2)(b) wallet, cell phone, cash, and paystubs. PO Alves asked § 87(2)(b) if he wanted the officers to give the items to § 87(2)(b) or take them to the stationhouse for him. § 87(2)(b) asked the officers to give the items to § 87(2)(b). PO Alves allegedly tossed § 87(2)(b) items inside the apartment. § 87(2)(b) stated that she did not throw the items forcefully. However, following the incident, § 87(2)(b) observed that his cell phone's screen was cracked [12 Board Review]. The cell phone was not damaged in any way before the incident, so § 87(2)(b) concluded that the screen cracked when PO Alves tossed it to § 87(2)(b).

§ 87(2)(b) stated that, by the time § 87(2)(b) was handcuffed, she had moved into the hallway and was in a position to observe the search. She stated that two officers stood on either side of § 87(2)(b) and emptied his front and back pants pockets. § 87(2)(b) did not remember and could not describe these officers. The officers removed § 87(2)(b) iPhone, Samsung Galaxy, wallet, debit card, tissues, change, and cash out of his pockets, along with a cell phone belonging to § 87(2)(b). The officers dropped all of these items on the floor with the exception of § 87(2)(b)'s cell phone and the debit card. Following the search, § 87(2)(b) picked the items up off the ground and took them into the apartment. She stated that she did this so quickly that she did not have time to look them over and check for damage. § 87(2)(b) later informed § 87(2)(b) that the screen of one of his phones had cracked. § 87(2)(b) did not observe this crack during the incident, but confirmed that the phone's screen was not cracked prior to the incident.

PO Alves corroborated that § 87(2)(b) was searched in the hallway after he was handcuffed. PO Alves did not recall who participated in this search, but stated that every responding officer was still upstairs and in the immediate vicinity when the search took place. PO Alves did not recall if officers recovered anything during this search and did not recall seeing officers remove a cell phone from § 87(2)(b) pocket. PO Alves stated that no officer on scene threw § 87(2)(b) possessions to the floor or took any other action to damage his cell phone. PO Alves did not observe or learn that a cell phone had been broken at any point throughout this incident. PO Alves stated that she never damaged § 87(2)(b) property.

PO Haywood stated that he did not take part in any search or frisk but that he would have been in the immediate vicinity when it took place in the hallway. PO Haywood did not recall observing or learning that officers had recovered anything from § 87(2)(b) pockets, including a cell phone.

He never observed or learned that an officer had thrown any of § 87(2)(b) possessions to the ground, and no one on scene ever complained that this had occurred. PO Haywood stated that he never saw § 87(2)(b) cell phone during the incident and could not speak to whether it was damaged at any point.

PO Fiorenza stated that he did not participate in the search and did not recall which officers did so. PO Fiorenza did not recall seeing § 87(2)(b) cell phone at any point. No officer tossed a cell phone to the floor at any point throughout this incident. PO Fiorenza never observed or learned that a cell phone had been damaged on scene, and no civilian on scene complained that a cell phone had been damaged.

PO Salgado did not recall if § 87(2)(b) was searched or frisked. PO Salgado did not recall if any officer ever removed a cell phone from § 87(2)(b) person. PO Salgado did not see any officer throw § 87(2)(b) cell phone on the floor, did not observe or learn that a cell phone was damaged during the incident, and never heard or learned that any civilian had complained that officers damaged a cell phone on scene.

EMT § 87(2)(b) was not present when § 87(2)(b) was searched. EMT § 87(2)(b) never learned anything about what happened while he waited downstairs. When EMT § 87(2)(b) went upstairs, he did not see a cracked cell phone.

§ 87(2)(b) did not provide any testimony with regards to this allegation.

§ 87(2)(g)

[REDACTED]

Squad: 1

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_  
Title/Signature Print Date